

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

JERRY A. BRABAZON
individually and on behalf
of all others similarly situated,

Plaintiff,

Case No: 10-C-0714

vs.

AURORA HEALTH CARE, INC.

Defendant.

DECLARATION OF PAT LOWERY

I, Pat Lowery, certify under penalty of perjury that the following is true and correct to the best of my knowledge and recollection:

1. I am an adult resident of the state of Illinois. I reside at 39069 North Browe School Road, Old Mill Creek, Illinois.
2. I have been employed by Aurora Health Care, Inc. (Aurora) as a security officer for one year at their Lakeland Medical Center facility in Elkhorn, Wisconsin.
3. During my employment with Aurora, I typically work an 8.5 hour shift, beginning at 3:00p.m. and ending at 11:30p.m., 5 days a week. I occasionally work a 12 hour shift, from 12:00p.m. to 7:00p.m.
4. During my entire employment with Aurora, I have been paid an hourly wage. My hourly rate is \$14.50 an hour.
5. My job duties as a security officer include providing general security functions for the hospital: patrolling the building and surrounding parking lots; responding to emergency situations; responding to calls to restrain unruly patients; ensuring the building doors are locked; responding to calls to assist hospital patients and visitors who are locked out of their cars; responding to central supply requests when equipment is needed on a particular floor;

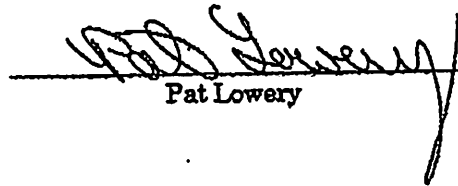
responding to maintenance calls; responding to calls for "patient standby" when a patient is intoxicated and needs supervision; assisting in the transport of patients to other floors or departments when necessary; and providing any and all safety and security services that are required.

6. I am typically scheduled to be at work for 8.5 hours per shift. Aurora automatically deducts one half hour of pay for a meal period for each 8.5 hour shift worked. I am aware that Aurora similarly automatically deducts half an hour from other security officer's pay checks based on conversations with those security officers.
7. As an Aurora security officer, I am required to remain on duty and to be ready and available to respond to calls on my cellular phone, my walkie-talkie radio and my pager at all times while on duty, including during my meal period. I am not permitted to turn those devices off during my meal period.
8. I am aware that the Kronos system has a procedure for recording a paid lunch. However, I only once followed this procedure. My supervisors discourage taking paid meal periods, and I have discussed the matter with Sergeant Bruenning. On the one occasion where I recorded a paid meal period, I was questioned by Sergeant Bruenning by email about taking the paid meal period. I am aware that my supervisor reviews my time either daily or weekly and questions if I ever tried to take a paid lunch. Further, because I am required to be on duty during every meal period during my employment, my supervisor would have had to grant approval for every shift that I worked. I do not believe that approval would have been given. I would have been subject to discipline for making daily requests for paid meal periods.
9. During my meal periods, I am required to be on duty. I am not provided with 30 minutes free from work. During my meal periods, I am required to carry and monitor my walkie-talkie, my pager and cellular phone at all times and to respond immediately if needed. I am required to respond to calls during the majority of my meal periods.
10. During my meal periods, I am frequently interrupted and required to respond to communications that came over the walkie-talkie and cellular phone and pager. These calls are sometimes of an emergency nature, however, the calls are not limited to emergency situations.
11. Pursuant to my training and directives from my supervisors, there is never a moment during my shift, including during my meal period, that I am unavailable to be contacted while on duty. I always have the walkie-talkie, pager and my cellular phone on.

12. Because I am required to ready and available to respond to calls, including emergency calls, during my meal period, I am unable to leave the Aurora facility during my unpaid meal period. I never left the premises for a meal break.

13. As a result of this automatic deduction policy, during most weeks I work 42.5 hours per week and am only paid for 40.

Executed this 30th day of November, 2010.


Pat Lowery